

Serial No. 09/606,050

H-926

REMARKS

The Applicants request reconsideration of the rejection.

Claims 13-36 are now pending.

Claims 13-16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Brown et al U.S. Patent No. 6,148,404 (Brown) in view of Nolan et al U.S. Patent No. 6,640,278 (Nolan).

As noted previously, the Applicants have amended independent claims 13 and 16 to more strongly and clearly distinguish the invention from the prior art, based on the "server-less backup operation". According to this feature of the invention, the backup operation is performed faster by copying data directly from one storage to another via a storage area network (SAN), reducing the load on the servers connected to the SAN. Note that the LAN is not implicated at all in the server-less backup. By this feature, the server can be free to perform another operation, such as a data access operation from client to storage.

In contrast, any combination of Brown and Nolan (to the extent proper) fails to teach a server-less backup, but would require that data be transferred as a background process from a first device through a storage server to a second device. Note that Nolan discloses this data transfer in column 27, lines 55-58 and Figure 27.

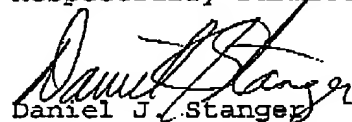
Serial No. 09/606,050

H-926

Further, claim 15 sets forth a novel "non-disruptive" backup operation in which data is copied from a primary volume to a secondary volume, and the data is copied from the secondary volume to a backup storage. By this feature, operation of the server is not disrupted, and in particular, access to the primary volume is not disrupted in performing the backup copying from the secondary volume to the backup storage.

In view of the foregoing amendments and remarks, the Applicants request reconsideration of the rejection and allowance of the claims.

Respectfully submitted,



Daniel J. Stanger
Registration No. 32,846
Attorney for Applicants

MATTINGLY, STANGER & MALUR, P.C.
1800 Diagonal Road, Suite 370
Alexandria, Virginia 22314
Telephone: (703) 684-1120
Facsimile: (703) 684-1157
Date: April 30, 2004